

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA

## Alexandria Division

UNITED STATES OF AMERICA

**V.**

CHARLES BENEDICT RWEYENDELA

**Defendant.**

CRIMINAL NO. 1:13-MJ-462

**AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT AND ARREST WARRANT**

**I, Luis B. Santana, being duly sworn, state:**

1. I am a Special Agent employed by the United States Department of Homeland Security, Immigration and Customs Enforcement (ICE). I am assigned to ICE Homeland Security Investigations (HSI) – Washington D.C., which is located in Fairfax, Virginia. I have been employed as a Special Agent with ICE since August 2009. I am a graduate of the Federal Law Enforcement Training Center's Criminal Investigator Training Program and the ICE Special Agent Training Program. Prior to becoming a Special Agent, I was employed for ten years with the Virginia Beach Police Department, assigned to the Special Investigations Division as a narcotics detective. My duties as a Special Agent for ICE include, but are not limited to, investigating administrative and criminal violations of the Immigration and Nationality Act, U.S. customs laws and violations of the federal criminal code.

2. This affidavit is submitted in support of a criminal complaint and arrest warrant charging CHARLES BENEDICT RWEYENDELA with falsely and willfully representing himself to be a citizen of the United States, in violation of Title 18, United States Code, Section 911.
3. The facts and information contained in this affidavit are based upon my training and experience, participation in immigration investigations, personal knowledge, and observations during the course of this investigation, as well as the observations of other agents involved in this investigation. All observations not personally made by me were relayed to me by the individuals who made them or are based on my review of records, documents and other physical evidence obtained during the course of this investigation. This affidavit contains information necessary to support probable cause. It is not intended to include each and every fact and matter observed by me or known to the United States.
4. On or about April 10, 2013, Homeland Security Investigations, Washington Field Office, in Fairfax, Virginia received information about an individual who was making false claims to being a United States Citizen. This individual was identified as CHARLES BENEDICT RWEYENDELA ("RWEYENDELA").
5. RWEYENDELA was born in New York City, New York on November 4, 1978, to Benedicto Rweyendela (father) and Marcellina Tryphone (mother). Benedicto Rweyendela was in the United States in diplomatic status, on an A-1 visa, as the attaché at the Permanent Mission of Tanzania to the United Nations. As such, Benedicto Rweyendela and his immediate family, who were in the United States on A-2 visas, were granted diplomatic privileges and immunity. In or about 1980,

the RWEYENDELA family moved back to Tanzania and lived there for four (4) years. Thereafter, the RWEYENDELA family moved to the United Kingdom for approximately five (5) years and then returned to Tanzania in 1989.

6. On March 22, 2000, RWEYENDELA arrived in Washington, D.C. on an F-1 student visa to attend the University of Maryland.
7. In 2002, RWEYENDELA applied for a United States passport with his New York State birth certificate. He was issued a passport by the United States Department of State National Passport Center on April 18, 2002. RWEYENDELA traveled five (5) times from the United States to Tanzania and back, with his United States passport.
8. On March 14, 2012, RWEYENDELA applied for a United States passport renewal.
9. RWEYENDELA received official written notification from the United States Department of State National Passport Center, dated June 4, 2012, explaining why his United States passport renewal application was denied. It informed that at the time of RWEYENDELA's birth in 1978, his father, Mr. Benedicto RWEYENDELA, was an Attaché at the Permanent Mission of Tanzania to the United Nations from April 9, 1975 until September 28, 1980. This position granted RWEYENDELA's father and immediate family diplomatic privileges and immunity. While Mr. Benedicto RWEYENDELA served in this position, he and his family were not subject to the jurisdiction of the United States. Therefore, pursuant to the 14<sup>th</sup> Amendment to the United States Constitution and Section 8 United States Code 1401(a), RWEYENDELA did not acquire United States

citizenship as a result of his birth in New York. As such, RWEYENDELA was not entitled to a United States passport.

10. In a signed statement titled "Statement by Charles Benedict RWEYENDELA in Support of Adjustment of Status Application," dated July 31, 2012, RWEYENDELA stated that on June 14, 2012, he went to the United States Passport Office to inquire on the status of his passport renewal. RWEYENDELA stated that a supervisor advised him that his United States passport renewal application had been denied because he shouldn't have been issued a United States passport since he was born to diplomats. The statement goes on to say that the next day he received the June 4, 2012 letter from the Department of State informing him that he was not a U.S. citizen. Finally, the signed statement acknowledges that he is aware that he is not a U.S. citizen.
11. On October 11, 2012, after having been notified in person on June 14, 2012, and in writing by letter dated June 4, 2012, by the Department of State, that he is not a United States citizen, RWEYENDELA applied for employment with INFORMATION INNOVATORS INC., a U.S corporation, headquartered in Springfield, Virginia, within the Eastern District of Virginia.
12. On October 16, 2012, RWEYENDELA completed Form I-9 (Employment Eligibility Verification) at INFORMATION INNOVATORS INC., in Springfield, Virginia, and attested that he was aware that federal law provides for imprisonment and/or fines for false statements, and, under penalty of perjury, claimed that he is a citizen of the United States. RWEYENDELA presented a Virginia driver's license and a Social Security card (213-63-75-24) for employer

review and verification. RWEYENDELA began work for INFORMATION INNOVATORS, INC., on October 22, 2012.

13. On October 25, 2012, RWEYENDELA filed Form I-485, Application to Register Permanent Residence or Adjust Status, with United States Citizenship and Immigration Services ("USCIS"), concurrently with an I-130 Petition for Alien Relative, filed on his behalf by his U.S. citizen wife, as well as Form I-765, Application for Employment Authorization, in an attempt to become a permanent resident in the United States. Attached to the application was the aforementioned July 31, 2012 signed statement acknowledging that he is not a United States citizen.
14. On December 28, 2012, USCIS approved RWEYENDELA's Form I-765 for employment authorization, valid from December 28, 2012 to December 27, 2013 (contingent upon the pendency of RWEYENDELA's Form I-485)
15. On April 16, 2013, USCIS denied RWEYENDELA's Form I-485, Application to Register Permanent Residence or Adjust Status, due to petitioner, his U.S. citizen wife, withdrawing the application. RWEYENDELA currently has no status in the U.S.
16. Based on a review of documents in RWEYENDELA's A-file, the October 2012 employment records, and my training and experience, I submit to the Court that probable cause exists to believe that RWEYENDELA clearly knew that he was not a United States citizen at the time that he completed the Form I-9 in October 2012 and therefore was not eligible to obtain employment based on United States citizenship. There is probable cause to find that RWEYENDELA violated Title

18, United States Code, Section 911, to wit: RWEYENDELA falsely and willfully represented himself to be a United States citizen while applying for employment when RWEYENDELA knew he was not a United States citizen.

A handwritten signature in black ink, appearing to read 'L. B. Santana', written over a horizontal line.

Luis B. Santana, Special Agent  
United States Department of Homeland Security  
U.S. Immigration and Customs Enforcement  
Homeland Security Investigations

Sworn to and subscribed to before me  
this 30th day of July 2013.

/s/Thomas Rawles Jones, Jr.

The Honorable T. Rawles Jones, Jr.  
United States Magistrate Judge  
Alexandria, Virginia